

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 15, 2011
POSITION: Neutral

BILL NUMBER: AB 469
AUTHOR: S. Swanson

BILL SUMMARY: Employees: Wages

This bill would establish the Wage Theft Prevention Act of 2011, which would provide additional penalties for an employer's violations of wage laws and for post-judgment actions after a wage claim award. It would also require employers to provide specified information to employees when they are hired and to provide an accounting of their assets under specified conditions.

FISCAL SUMMARY

The Division of Labor Standards Enforcement (DLSE) indicates that any costs resulting from this bill would be minor and absorbable within existing resources. Minimal costs may result from the development of templates in various languages, which would be used by employers to provide required information, as specified, to employees at the time of hire.

Extending the time period for seeking a clerk's judgment on a final administrative order or decision from one year to three years may allow collection of amounts due for citations which are not currently processed within the one year time frame. This will likely increase amounts collected pursuant to the orders and ease a growing backlog of filing requests. The DLSE is unable to estimate the amount of anticipated increased collections as the value of the claims that exceed the one year time limit and remain unprocessed is unknown.

Any local government costs resulting from the mandate in this measure would not be state-reimbursable, because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

COMMENTS

The Department of Finance is neutral on this bill as this bill strengthens enforcement tools to combat willful violation of wage payment standards and non-payment of final court judgments of Labor Commissioner orders.

This bill would provide that an employer who has the ability to pay, but willfully fails to pay within 90 days, a final court judgment or Labor Commissioner order for wages due to employees who have been discharged or quit, is guilty of a misdemeanor. If the wages due are less than \$1,000, the employer would be fined \$1,000 to \$10,000, or imprisoned in county jail for not more than six months, for each offense. If the wages due are more than \$1,000, the penalty would be a fine of between \$10,000 and \$20,000, or imprisonment in county jail for not less than six months, or both the fine and imprisonment, for each offense.

The bill would also authorize an employee to recover attorney's fees and costs incurred to enforce a court judgment for unpaid wages.

This bill would expand the use of bonds required under current law from employers who have, twice within ten years, been convicted of violating wage laws or failed to satisfy a judgment for nonpayment of wages.

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| Analyst/Principal (0241) J. Sturges | Date | Program Budget Manager Lisa Ann L. Mangat | Date |
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| Department Deputy Director | Date |
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| Governor's Office: | By: | Date: | Position Approved _____ |
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| BILL ANALYSIS | Form DF-43 (Rev 03/95 Buff) |
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COMMENTS (continued)

The bonds may currently be held until past due wages and all judgments for nonpayment of wages have been paid. This bill would also make the bonds payable for wages, interest, and damages arising from a violation of orders of the Industrial Welfare Commission and for any other monetary relief awarded to an employee as a result of wage law violations.

An employer, if ordered by a court upon the request of the Labor Commissioner or the employee bringing a wage action, would be required to provide an accounting of all assets to assist in enforcement of wage law provisions. In addition, the bill would authorize the Labor Commissioner to require an accounting of an employer's assets if an order to post a bond, required as a result of an employer's violation of wage laws or nonpayment of wages, is not satisfied within ten days. In the event an employer does not comply with a demand for accounting of assets, the bill authorizes the Labor Commissioner, to bring a civil action against the employer to compel the employer to provide the accounting. Failure to provide an accounting would subject the employer to a maximum \$10,000 penalty.

The bill would also require the Division of Labor Standards Enforcement (DLSE) to file, within three years from the date a penalty or fee becomes final, a request for entry of judgment on a civil penalty or fee with the clerk of the superior court of the relevant county. The superior court clerk would be required to enter judgment immediately in conformity with the DLSE request.

Under the provisions of this bill, an employer would be required to provide written notice to an employee at the time of hire, specifying the employee's pay rate, payday, and the name address, and telephone number of the employer. Another written notice would also be required within seven days of any change to the information included in the written notice.

| Code/Department Agency or Revenue Type | SO | (Fiscal Impact by Fiscal Year) | | | | | | | |
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| | LA | (Dollars in Thousands) | | | | | | | |
| | CO | PROP | | | | | | | Fund |
| | RV | 98 | FC | 2011-2012 | FC | 2012-2013 | FC | 2013-2014 | Code |
| 7350/DIR | SO | No | | ----- | No/Minor Fiscal Impact | ----- | | | 3152 |
| 1644/Civ Crim Vio | RV | No | | ----- | See Fiscal Summary | ----- | | | 3152 |

| <u>Fund Code</u> | <u>Title</u> |
|------------------|---------------------------------------|
| 3152 | Labor Enforcement and Compliance Fund |